

OCA FILE

LEG

25 November 1988

OCA 3828-88

MEMORANDUM FOR: Director of Personnel

FROM:

Deputy Director for Legislation
Office of Congressional Affairs

STAT

SUBJECT: FY 1990 Intelligence Authorization Bill

1. Attached for your review is the second draft of the FY 1990 Intelligence Authorization bill. The bill incorporates three proposals by the Office of Personnel. The first proposal would require CIARDS participants to complete, within the last two years before retirement, one year of service to be eligible for retirement. The second proposal would allow unhealthful post credits for employees under FERS Special. The final proposal would make certain amendments to the former spouse legislation. This draft bill does not include the proposal to reduce CIARDS and FERS Special eligibility from five years to three years because the Director has not yet approved this legislative proposal.

2. The bill incorporates several controversial proposals by components within DoD dealing with personnel benefits, but these proposals have not yet been accepted by the Secretary of Defense.

3. Please provide any comments on the draft bill by December 12 to my staff.

STAT

Attachment as
stated

OCA/LEG, 25 Nov 88

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25 November 1988
OCA 3831-88

MEMORANDUM FOR:

[redacted]
Legislative Counsel
National Security Agency

STAT

FROM:

[redacted]
Deputy Director For Legislation
Office of Congressional Affairs

STAT

SUBJECT:

FY 1990 Intelligence Authorization Bill

1. Attached for your review is a second draft of the FY 1990 Intelligence Authorization bill. The bill incorporates your proposal on employee tax equalization, which was included last year, and the proposal to exclude the NSA and DIA directors and deputy directors from the flag rank ceiling.

2. As you are aware, some concern has been raised by Charles Hawkins, Deputy Assistant Secretary of Defense for Intelligence, regarding the proposal pertaining to flag rank ceilings. Hawkins questioned why the the proposal was limited to NSA and DIA, and suggested it needed careful staffing within various elements of DoD. We hope that the coordination within DoD can be completed before the Intelligence Authorization bill is sent to the DCI for transmittal to OMB.

3. I would appreciate receiving any comments you have on the draft bill, along with a status report regarding coordination with DoD on the flag rank ceiling provision, by 12 December. Thanks for your cooperation on this matter.

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Attachment as
stated

OCA [redacted] 25 Nov 88

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25 November 1988
OCA 3829-88

MEMORANDUM FOR: See Distribution

FROM:


Deputy Director for Legislation
Office of Congressional Affairs

STAT

SUBJECT: FY 1990 Intelligence Authorization Bill

1. Attached for your review is the second draft of the FY 1990 Intelligence Authorization bill. The bill incorporates a variety of proposals from NSA, DIA, Army, FBI, and CIA. Not all these proposals will necessarily be forwarded to OMB.

2. It is important that we have your comments by 12 December on the draft bill. If we do not hear from you by that date, we will assume that you have no objections to the bill. Following this round of coordination, the bill will be sent to the Director for approval and then to OMB for Administration clearance.

STAT

Attachment as
stated

OCA 3829-88

SUBJECT: Second draft - Intelligence Authorization Act
for Fiscal Year 1990

OCA/LEG 25 Nov 88

STAT

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OCA 3829-88

SUBJECT: Second draft - Intelligence Authorization Act
for Fiscal Year 1990

OCA/LEG/ [redacted] 25 Nov 88

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Z 5 NOV 1988

A BILL

To authorize appropriations for fiscal year 1990 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1990".

TITLE I - INTELLIGENCE ACTIVITIES

Authorization of Appropriations

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1990 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

- (1) The Central Intelligence Agency.
- (2) The Department of Defense.
- (3) The Defense Intelligence Agency.
- (4) The National Security Agency.
- (5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
- (6) The Department of State.
- (7) The Department of the Treasury.
- (8) The Department of Energy.
- (9) The Federal Bureau of Investigation.
- (10) The Drug Enforcement Administration.

Classified Schedule of Authorizations

SEC. 102. The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1990, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the Committee of Conference to accompany () of the One Hundred and First Congress.

That Schedule of Authorizations shall be made available to the Committee on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the Executive Branch.

Personnel Ceiling Adjustments

SEC. 103. The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for fiscal year 1990 under sections 102 and 202 of this Act when he determines that such action is necessary to the performance of important intelligence functions, except that such number may not, for any element of the Intelligence Community, exceed 2 per centum of the number of civilian personnel authorized under such sections for such element. The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

TITLE II
INTELLIGENCE COMMUNITY STAFF

Authorization of Appropriations

SEC. 201. There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1990 the sum of \$_____

Authorization of Personnel End Strength

SEC. 202.(a) The Intelligence Community Staff is authorized _____ full-time personnel as of September 30, 1990. Such personnel of the Intelligence Community Staff may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) During fiscal year 1990, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.

(c) During fiscal year 1990, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

Intelligence Community Staff Administered
in Same Manner as Central Intelligence Agency

SEC. 203. During fiscal year 1990, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III - CENTRAL INTELLIGENCE AGENCY
RETIREMENT AND DISABILITY SYSTEM

Authorization of Appropriations

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1990 the sum of \$_____

TITLE IV
CENTRAL INTELLIGENCE AGENCY
ADMINISTRATIVE PROVISIONS

Remote Sensing Procurement Authority

SEC. 401. Section 3 of the Central Intelligence Agency of Act of 1949 (50 U.S.C. §403c) is amended by adding at the end thereof the following new subsection:

"(f) In the performance of its functions, the Agency may use its funds to procure commercial remote sensing data by whatever means the Agency deems to be appropriate notwithstanding any other provision of law."

Eligibility for Annuity

SEC. 402. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, is amended --

(1) by redesignating section 236 as section 237; and

(2) by inserting before the heading "Limitation on Number of Retirements," the following:

"Eligibility for Annuity"

"SEC. 236. A participant must complete, within the last two years before any separation from service, except a separation because of death or disability, at least one year of creditable civilian service during which he or she is subject to this title before he or she or his or her survivors are eligible for an annuity under this title based on the separation. If a participant, except a participant separated from the service because of death or disability, fails to meet the service requirement of the preceding sentence, the amounts deducted from his or her pay during the period for which no eligibility is established based on the separation shall be returned to him or her on the separation. Failure to meet this service requirement does not deprive the individual or his or her survivors of annuity rights which attached on a previous separation."

UNHEALTHFUL POST-DIFFERENTIAL FOR FERS SPECIAL

SEC. 403. Section 302 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended in subsection (b)--

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end of subsection (b) the following:

"(2) Section 251(b) of this Act shall also apply to officers and employees referred to in subsection (a).".

DEATH IN SERVICE BENEFIT FOR FORMER SPOUSES

SEC. 404. Section 232(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, is amended--

(1) by adding at the end of paragraph (1) thereof the following new sentence: "Payment of death in service benefits for former spouses is also subject to paragraph (4) of this subsection"; and

(2) by adding after paragraph (3) thereof the following:

"(4) If a former spouse eligible for death in service benefits under provisions of this section is or becomes eligible for survivor benefits under section 224, the benefits provided under this section will not be payable and will be superseded by the benefits provided in section 224."

TITLE V
NSA/DIA/ARMY
PERSONNEL AUTHORITIES IMPROVEMENTS

NSA/DIA Employee Tax Equalization

SEC. 501. Section 912 (1) of chapter 1 of title 26, United States Code, is amended by striking the "or" in paragraph (C) and inserting at the end thereof the following new paragraphs:

"(E) subsection (b) of section 9 of the National Security Agency Act of 1959, as amended (50 U.S.C. §402 note), whenever the allowance would be excluded from gross income under paragraphs (1)(A) or (1)(B) of this section, or

"(F) subsection 1605 (a) of title 10, United States Code, whenever the allowance would be excluded from gross income under paragraph 1(A) of this section."

Foreign Language Proficiency Incentive Pay

SEC. 502(a): Chapter 33 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"1608. Special Pay for Foreign Language Proficiency

"(a) In addition to any compensation authorized under section 1604(b) of this title, the Secretary of Defense further may compensate civilian officers and employees of the Department of Defense: (1) who have been certified to be proficient in a foreign language identified by the Secretary of Defense as being a language where personnel proficiency is necessary for national defense considerations; and (2) who serve in positions where proficiency facilitates performance of officially assigned duties, or otherwise are proficient in a foreign language for which the Department has a critical need.

"(b) The annual rate for special pay under subsection (a) shall be determined by the Secretary of Defense but may not exceed \$3,600.00."

(b) The table of contents of chapter 33 of title 10, United States Code, is amended by adding at the end thereof the following:

"1608. Special Pay for Language Proficiency."

Defense Intelligence College Gift Acceptance Authority

SEC. 503: (a) Chapter 155 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"2606. Gifts to support the Defense Intelligence School

(a) The Secretary of Defense is authorized to accept, hold, administer, and use gifts, to include bequests or devises, money, securities, or other property, both real and personal, for the purpose of aiding and facilitating the work of the Defense Intelligence College.

(b) Gifts of money and proceeds from sales of property received as gifts shall be deposited in the Treasury and shall be available for disbursement upon the order of the Secretary.

(c) For purposes of federal income, estate, and gift taxation, gifts accepted by the Secretary under this section shall be considered to be to or for the use of the United States."

(b) The table of contents of chapter 155 of title 10, United States Code, is amended by adding at the end thereof the following:

"2606. Gifts to support the Defense Intelligence School."

Exclusion of DIA/NSA Director and DIA Deputy Director
Billets from Service Flag Rank Quotas

SEC. 504: (a) Chapter 32 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"527. Exception to General and Flag Officer Grade Ceiling

"Commissioned officers serving as Director or Deputy Director of the Defense Intelligence Agency, or Director of the National Security Agency, during the period in that appointment, shall not be counted against the numbers and percentages of commissioned officers of the rank and grade of such officer authorized for the Armed Force of which he is a member."

(b) The table of contents of chapter 32 of title 10, United States Code, is amended by adding at the end thereof the following:

"527. Exception to General and Flag Officer Grade Ceiling."

Extension of DIA and Military Department
Employee Termination Authority

SEC. 505: Section 1604(e)(1) of title 10, United States Code, is amended by striking "during fiscal years 1988 and 1989."

Amendments to Intelligence Identities Act

SEC. 506: Subsection (4) of Section 606 of the National Security Act of 1947, as amended, is further amended --:

(a) in subclause (A), by striking out "assigned to duty with" and inserting in lieu thereof "acting as an agent of, or informant or source of operational assistance to";

(b) in subclause (B)(i) by striking the phrase "resides and"; and

(c) in subclause B(ii) by inserting "or source of operational assistance" after the word "informant", and by striking the phrase "the Federal Bureau of Investigation" and inserting in lieu thereof "an intelligence agency."

Secure Promotions for U.S. Army Intelligence Officers

SEC. 507: (a) Chapter 343 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"SEC. 3549. Military Intelligence: Secure Promotions of Officers Serving in the Great Skills Program or its Successors

"If the Secretary of the Army determines that compliance with the appointment procedures specified in section 624(c) of

this title may be harmful to the security or safety of officers performing classified intelligence or counterintelligence duties as members of the Great Skills Program or its successors or compromise the security of an intelligence or counterintelligence operation conducted by Great Skills personnel, the Secretary may submit to the President a classified list identifying those affected officers whom the Secretary recommends for promotion. The President, without seeking the advice and consent of the Senate, may appoint officers so identified in grades below that of brigadier general. The Secretary of the Army shall annually report to the Committee on Armed Services of the Senate and House of Representatives the number of officers promoted under this section and the grades to which such officers were promoted.".

(b) The amendment made by this section shall be effective for promotions occurring on or after 1 October 1989.

(c) The table of contents of Chapter 343 of Title 10, United States Code, is amended by adding at the end thereof the following:

3549. Military Intelligence: Secure Promotions of Officers Serving in the Great Skills Program or its Successors."

U.S. Citizenship for U.S. Army Russian
Institute (USARI) Staff

SEC. 508: (a) Section 1430 of title 8, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) Any person who (1) is employed by the U.S. Army Russian Institute, and (2) has been so employed continuously for a period of not less than five years after a lawful admission for permanent residence, and (3) who files his petition for naturalization while so employed or within six months following the termination thereof, and (4) who is in the United States at the time of naturalization, and (5) who declares before the naturalization court in good faith an intention to take up residence within the United States immediately upon termination of such employment, may be naturalized upon compliance with all the requirements of this subsection except that no prior residence or specified period of physical presence within the United States or any State or within the jurisdiction of the court, or proof thereof, shall be required."

(b) The amendment made by this subsection shall be effective upon date of enactment.

(c) The title of Section 1430 shall be amended to read as follows:

"Section 1430. Married persons and employees of certain nonprofit organizations and the United States Army Russian Institute".

(d) The table of contents for Chapter 12, Subchapter III,

Part II, § 1430 is amended to read as follows:

" 1430. Married persons and employees of certain nonprofit organizations and the United States Army Russian Institute."

Permanent Special Termination Authority
For The Secretary of Defense

SEC. 509: Section 1590(e)(1) of title 10, United States Code, is amended by striking ", during fiscal years 1988 and 1989,".

Defense Language Institute Civilian
Personnel Management Authority

SEC. 510: (a) Part III of title 10, United States Code, is amended by adding at the end thereof the following new chapter:

CHAPTER 111--Defense Language Institute
Sec.

- "2191. Function.
- "2192. Civilian faculty.
- "2193. Civilian personnel management.
- "2194. Conferral of degrees upon graduates.

"SEC. 2191. Function

"There is an organization for the instruction of Department of Defense personnel and others, as approved by the Secretary of Defense, in foreign languages and for the encouragement of foreign language instruction throughout educational institutions in the United States.

"SEC. 2192. Civilian Faculty

"The Secretary of Defense may employ such civilians as he considers necessary to serve in this Institute as chancellor, senior professors, professors, associate professors, assistant professors, instructors, and supporting staff. The Secretary of Defense shall prescribe the qualifications, duties, tenure, and compensation of those persons.

"SEC. 2193. Civilian Personnel Management

"(a) The Secretary of Defense may establish a flexible personnel management system for the civilian faculty and

analogous staff members of this Institute. Chapters 41, 43, 51, 53, 61, 75, and Subchapters I, II, and V of Chapter 55 of title 5 shall guide the Secretary in this establishment of such system but shall not be binding on the Secretary.

"(b) In no case may compensation be paid at a rate in excess of the rate of basic pay for Level V of the Executive Schedule as noted in Chapter 53 of title 5.

"SEC. 2193. Conferral of Degrees Upon Graduates

"(a) The Chancellor of the Institute, under direction of the Secretary of Defense, may confer on any qualified graduate an appropriate degree in a foreign language.

"(b) A degree may not be conferred under this section unless the curriculum leading to that degree is accredited by the appropriate professional authority."

(b) The table of chapters at the beginning of subtitle A of such title, and the table of chapters at the beginning of Part III of such subtitle, are amended by inserting after the item relating to Chapter 110 the following new item:

"111. Defense Language Institute.....2191."

Authority to Employ Personal Services

SEC. 511: (a) SEC. 1342, Chapter 13 of title 31, United States Code is amended by adding at the end of the first sentence thereof the following new sentence:

"Notwithstanding the foregoing limitation on the employment of personal services, the Secretary of the Army is authorized to employ personal services to provide instructors at a classified training facility."

(b) This amendment shall be effective on 1 October 1989.
Relief from Prohibition on Dual Compensation

SEC. 512: (a) Section 5532, Subchapter IV, Chapter 55 of title 5, United States Code is amended by adding at the end thereof the following new subsection:

"(g). Notwithstanding any other provision of law, the retired or retainer pay of a former member of a uniformed service shall not be reduced while such former member is employed by the United States Government to perform duties governed by Executive Order 12333 or successor orders, or to train others to perform such duties."

(b) The amendment made by this section shall be effective on 1 October 1989.

TITLE VI
FBI ENHANCED COUNTERINTELLIGENCE AUTHORITIES

Access to Consumer Reports

SEC. 601 The Consumer Credit Protection Act is amended by inserting "(1)" before the existing paragraph of Section 608 (15 U.S.C. 1681f) and by adding the following new paragraphs:

"(2) Notwithstanding the provisions of Section 1681b of this title, a consumer reporting agency shall furnish a consumer report to the Federal Bureau of Investigation when presented with a request for a consumer report made pursuant to this subsection by the Federal Bureau of Investigation providing that the Director of the Federal Bureau of Investigation, or his designee, certifies in writing to the consumer reporting agency that such records are sought for foreign counterintelligence purposes and that there are specific and articulable facts giving reason to believe the person to whom the requested consumer report relates is an agent of a foreign power as defined in Section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. §1801).

(3) Notwithstanding the provision of Section 1681b of this title, a consumer reporting agency shall furnish identifying information respecting any consumer, limited to name, address, former address, place of employment, or former place of employment, to a representative of the Federal Bureau of Investigation when presented with a written request signed by the Director of the Federal Bureau of Investigation, or the Director's designee, stating that the information is sought in connection with an authorized foreign counterintelligence investigation.

(4) No consumer reporting agency, or officer, employee, or agent of such institution, shall disclose to any person that the Federal Bureau of Investigation has sought or obtained a consumer report under this section."

Access to Social Security Information

SEC. 602. The Social Security Act is amended by adding at the end of Section 1106 (42 U.S.C. 1306) a new subsection (f):

"(f) FBI REQUESTS FOR FOREIGN COUNTERINTELLIGENCE PURPOSES.

Notwithstanding Section 1306(a), the Secretary of Health and Human Services, or the Secretary of Labor, as the case may be, shall disclose information in the Secretary's possession relating to the address, former address, place of employment, and former place of employment of a named person, when presented with a certification signed by the Director of the Federal Bureau of Investigation, or the Director's designee, stating that:

(1) The information is sought in connection with an authorized foreign counterintelligence investigation; and,

(2) There are specific and articulable facts giving reason to believe the person is an agent of a foreign power as defined in Section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. §1801).".

TITLE VII
GENERAL PROVISIONS

Increase in Employee Compensation
and Benefits Authorized by Law

SEC. 701. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SECTION-BY-SECTION ANALYSIS
AND EXPLANATION

TITLE I
INTELLIGENCE ACTIVITIES

Section 101 lists the departments, agencies, and other elements of the United States Government for whose intelligence and intelligence-related activities the Act authorizes appropriations for Fiscal Year 1990.

Section 102 makes clear that details of the amounts authorized to be appropriated for intelligence and intelligence-related activities and personnel ceilings covered under this title for Fiscal Year 1990 are contained in a classified Schedule of Authorizations. The Schedule of Authorizations is incorporated into the Act by this section.

Section 103 authorizes the Director of Central Intelligence in Fiscal Year 1990 to expand the personnel ceilings applicable to the components of the Intelligence Community under Sections 102 and 202 by an amount not to exceed two percent of the total of the ceilings applicable under these sections. The Director may exercise this authority only when necessary to the performance of important intelligence functions or to the maintenance of a stable personnel force, and any exercise of this authority must be reported to the two intelligence committees of the Congress.

TITLE II
INTELLIGENCE COMMUNITY STAFF

Section 201 authorizes appropriations in the amount of \$_____ for the staffing and administration of the Intelligence Community Staff for Fiscal Year 1990.

Section 202 provides details concerning the number and composition of Intelligence Community Staff personnel.

Subsection (a) authorizes full-time personnel for the Intelligence Community Staff for Fiscal Year 1990, and provides that personnel of the Intelligence Community Staff may be permanent employees of the Staff or detailed from various elements of the United States Government.

Subsection (b) requires that detailed employees be selected so as to provide appropriate representation from the various departments and agencies engaged in intelligence and intelligence-related activities.

Subsection (c) requires that personnel be detailed on a reimbursable basis except for temporary situations.

Section 203 provides that the Director of Central Intelligence shall utilize existing statutory authority to manage the activities and to pay the personnel of the Intelligence Community Staff. This language reaffirms the statutory authority of the Director of Central Intelligence and clarifies the legal status of the Intelligence Community Staff. In the case of detailed personnel, it is understood that the authority of the Director of Central Intelligence to discharge personnel extends only to discharge from service at the Intelligence Community Staff and not from federal employment or military service.

TITLE III
CENTRAL INTELLIGENCE AGENCY
RETIREMENT AND DISABILITY SYSTEM

Section 301 authorizes Fiscal Year 1990 appropriations in the amount of \$ _____ for the Central Intelligence Agency Retirement and Disability Fund for Fiscal Year 1990.

TITLE IV
CENTRAL INTELLIGENCE AGENCY
ADMINISTRATIVE PROVISIONS

Section 401 authorizes the Central Intelligence Agency to procure remote sensing data, e.g., Landsat data, without regard to restrictions contained in other provisions of law that would interfere with the direct acquisition by the Agency, or individuals acting on behalf of the Agency, of such data. A more detailed explanation of the reason this amendment is necessary and the uses the Agency makes of such data will be provided separately in a classified letter to the House and Senate Intelligence Committees.

Section 402 requires a participant in CIARDS to complete within the last two years before retirement one year of service before becoming eligible for an annuity.

Current Civil Service Retirement System (CSRS) legislation requires that an individual spend one out of their last two years prior to retirement in an active pay status. The CIA Retirement Act (CIARDS) has no similar provision, thus an individual can be in a When Actually Employed (WAE) status or Leave Without Pay (LWOP) status for an extended period of time and retain eligibility to retire. This legislation will resolve this inequity and put CIARDS in conformance with CSRS. An Executive Order to conform CIARDS and CSRS would not be appropriate in this instance since the CSRS legislation has been in existence since 1956 and conforming Executive Orders are authorized only with respect to legislation since 1975.

Section 403 provides participants in Federal Employees Retirement System (FERS) Special Category the opportunity to elect extra retirement credits in lieu of a pay differential for serving at an unhealthful post.

The FY-86 Intelligence Authorization Act provided CIARDS participants with the option of waiving the unhealthful post differential and electing extra retirement credit at the rate of one (1) year extra credit for every two (2) years differential that is waived. When the FERS Act was passed in June 1986, there was no legislative language contained in the Act which provided conformity regarding this benefit for the CIA FERS Special Category. Thus, to preclude an inequity from existing between our CIARDS and FERS Special Category employees, conforming legislation is necessary.

There is no current provision of law which allows this to be accomplished through Executive Order as is the case between Civil Service and CIARDS.

Section 404 clarifies language in the Intelligence Authorization Act of 1988 (P.L. 100-778) concerning death in service benefits. Under this legislation, a qualified former spouse is eligible for a pro-rata death in service benefit. In legislation passed in FY 1987 (P.L. 99-569) this same spouse, if divorced prior to 15 November 1982, is also entitled to receive the maximum (55%) survivor annuity. Neither piece of legislation addressed dual entitlements and the CIA interpreted P.L. 100-178 in a liberal fashion. Under this interpretation, a qualified former spouse who is under the age of 50 is entitled to receive a pro-rata share survivor benefit and upon reaching age 50 is also entitled to receive a maximum survivor benefit (55%). In order to preclude paying dual entitlements, Section 404 provides that the maximum survivor benefit authorized under P.L. 99-569 supercede death in service benefits which are authorized in P.L. 100-178 once the former spouse reaches age 50.

TITLE V
NSA/DIA
PERSONNEL AUTHORITIES IMPROVEMENTS

Section 501 would amend section 912(a) of the Internal Revenue Code of 1954 to grant tax treatment of allowances currently provided to certain Department of Defense (DoD) personnel under section 9(b)(1) of the National Security Agency Act of 1959 and section 1605 of title 10, United States Code, comparable with that provided to Foreign Service employees for similar allowances.

The Intelligence Authorization Act of 1982 (Public Law 97-89) amended the National Security Agency Act of 1959 to allow the Director of the National Security Agency to provide allowances and benefits to certain civilian employees of DoD which were comparable to those provided to the Department of State's Foreign Service and to employees of the Central Intelligence Agency. During the implementation of this statute, it was discovered that comparability of the allowances could not be achieved unless the tax exemption provided for Foreign Service and CIA employees under section 912(1)(A) and (B) of the Internal Revenue Code was also available for civilians employed and assigned to the National Security Agency.

The Intelligence Authorization Act for Fiscal Year 1984 (Public Law 98-215) amended title 10, United States Code, to provide certain allowances and benefits to personnel assigned to Defense Attaché Offices and Defense Intelligence Agency (DIA) Liaison Offices overseas comparable to those provided by the Secretary of State to officers and employees of the Foreign Service under chapter 9 of title 1 of the Foreign Service Act of 1980 and the provisions of 5 U.S.C. §5924(4). Although section 1605 was designed to establish equivalence between DAO/DIALO civilians and Foreign Service personnel with respect to many allowances and benefits, the actual value of the allowances and benefits to DAO and DIALO personnel is less than the value of the benefits to Foreign Service personnel, since the benefits granted under the Foreign Service Act are tax-free by virtue of section 912 of the Internal Revenue Code while those granted under section 1605 are not exempt from taxation.

The current inequity in taxation has been compounded by subsection 1232(b) of the Tax Reform Act of 1986 (Public Law 99-154). This subsection provides that civilian employees of DoD stationed in Panama may exclude from gross income allowances which are comparable to allowances excludable under section 912(a) of the Internal Revenue Code by employees of the Department of State stationed in Panama. Thus, it appears that any Defense Intelligence Agency or National Security Agency personnel stationed in Panama will, in future taxable years, be able to exclude from their gross income Foreign Service-equivalent allowances and benefits granted to them.

As a result of the provisions discussed above, there is now a situation where the tax laws treat identical allowances and benefits differently for NSA and DIA civilian personnel stationed overseas, from that of Foreign Service personnel. Moreover, under the Tax Reform Act of 1986, the tax laws now treat identical allowances and benefits differently for NSA and DIA civilian personnel in Panama from all other NSA and DIA civilian personnel stationed overseas. The addition of the proposed paragraphs (B) and (F) to section 912(1) of the Internal Revenue Code of 1954 will provide equal tax treatment for identical allowances and benefits received by NSA, DIA and Foreign Service civilian personnel stationed around the world.

The Congress is mindful of this problem and has indicated a willingness to assist. A provision identical to the amendment sought here was included in S. 1243, the Fiscal Year 1988 Intelligence Authorization Act as reported by the Senate Select Committee on Intelligence. During floor action on July 23, 1987, however, SSCI Chairman Boren was compelled to move to strike the provision from S. 1243 on account of a jurisdictional dispute. He indicated, however, that the Congress would be very receptive to the provision in the future (Congressional Record, July 23, 1987, pp. S 10591-92).

The provision was resubmitted to the Congress as Section 601 of the Administration's draft Fiscal Year 1989 Intelligence Authorization bill. By letter of 26 April 1988, Chairman Stokes of the Permanent Select Committee on Intelligence wrote to Chairman Rostenkowski of the House Ways and Means Committee concerning the proposal. By letter dated 25 May 1988, the Director of Central Intelligence wrote to Chairman Rostenkowski soliciting favorable consideration of the proposal by the Committee. The 100th Congress adjourned, however, without taking action on the proposal.

Section 501 is resubmitted again this year in hopes that it will be enacted.

Section 502 would provide the Secretary with authority to pay additional compensation to civilian employees of the Department, to include the military services and defense agencies, who are proficient in a foreign language which can be applied in the collection, production or dissemination of foreign intelligence. Currently, such authority exists for employees of the State Department, Central Intelligence Agency, National Security Agency and uniformed personnel of the military services. The need for such proficiency among civilian intelligence personnel in Defense Department components such as the Defense Intelligence Agency and the newly formed "INF Treaty On-Site Inspection Agency" is increasing along with demands for high quality all-source military intelligence. In addition, it is recognized that the acquisition, maintenance and enhancement of a foreign language skill requires extraordinary effort any time normally outside

of regular duty hours. Therefore, to encourage proficiency in critical foreign language communication skills (reading, speaking and listening), section 502 authorizes payment of special pay to civilian employees who test at or above the utility level established by the Secretary.

Section 503 authorizes the Secretary to accept and use gifts made to further the educational activities of the Defense Intelligence College. The Defense Intelligence College currently cannot take advantage of modest educational support opportunities presented by the private academic and corporate communities. This authority would be exercised with close legal supervision to ensure that no standards of conduct issues would arise.

Section 504 exempts the Director and Deputy Director of DIA and the Director of NSA, from general and flag officer grade ceilings. Such an exemption currently exists for officers appointed as DCI, DDCI, and Director of the IC Staff. However, the Armed Forces still are penalized by appointing their best intelligence officers to equivalent senior national foreign intelligence positions in DIA and NSA. While the Services consider it a distinct honor to fill such prestigious positions, the selected officers count against Service flag and general officer ceilings. This situation creates critical gaps in authorized flag and general officer intelligence positions in the Unified and Specified Commands and Service headquarters. This provision ensures that the Armed Service from which an officer is appointed as Director or Deputy Director of DIA or Director of NSA will not, by virtue of that appointment, be deprived of an authorized senior officer billet necessary for effective warfighting leadership and management support.

Section 505 amends provisions of 10 U.S.C. §1604(e)(1) to extend permanently the authority of the Secretary of Defense to terminate DIA and military department civilian personnel of the Defense Intelligence Agency. This proposal augments the ability of DoD personnel systems to address the unique difficulties attendant to managing personnel problems in a classified environment, and is in keeping with the findings and recommendations of the National Academy of Public Administration (NAPA) study.

Section 506 amends the Intelligence Identities Protection Act to bring within the Act's ambit the following three classes of intelligence agents, informants and sources who--through an oversight--had not previously been so covered and whose activities require such protection:

a. DoD personnel, both military and civilian, who are not assigned to duty with an intelligence agency, but nevertheless, whose identities and relationships to intelligence agencies are

classified information, and who may have served outside the United States in the past five years, but currently serve within the United States.

b. United States citizens whose intelligence relationships to the United States are classified information, and who reside in the United States, but act outside the United States on behalf of an intelligence agency.

c. United States citizens whose intelligence relationships to the United States are classified information, but who at the time of the disclosure are not acting as agents or informants to the FBI, but who are acting as agents or informants or sources of operational assistance to another intelligence agency.

Section 507 adds new Section 3549 to chapter 343 of title 10 to delete the requirement for Senate confirmation of certain officers recommended for promotion to the next higher grade who are on the active duty list and perform classified intelligence or counterintelligence duties as members of the Army's "Great Skills" program (or successor programs), a personnel management system for managing the careers of individuals who specialize in sensitive operational activities. This section provides a permanent statutory basis for informal understandings between the Army and the Senate Armed Services Committee regarding confirmation procedures designed to protect the identities of officers involved in these clandestine activities. This promotion authority will be used only if the Secretary of the Army determines that public disclosure of the identities and Army affiliation of the officers concerned might endanger their personal safety or compromise sensitive intelligence or counterintelligence operations. The new provision authorizes the President, acting alone, to appoint such officers to grades below that of brigadier general. It also requires the Secretary of the Army to provide annual reports to the Armed Services Committees of the Senate and House of Representatives specifying the number of officers appointed under this special procedure and the grades to which they are promoted.

Section 508 adds new subsection (e) to Section 1430 of title 8 to allow members of the U.S. Army Russian Institute (USARI) staff who have defected or emigrated to the West to obtain U.S. citizenship while working at the school in Garmisch, Federal Republic of Germany. Section 1430 already allows several exceptions to the normal requirement of prior residence or physical presence within the United States for U.S. citizenship. The new subsection will allow members of the USARI staff to remain at the school to perform their teaching duties while at the same time accruing time towards U.S. citizenship. At the present time a majority of the staff at USARI are stateless. Because of the location of the school, employees are unable to fulfill the residency requirement for U.S. citizenship. As defectors and emigres, the employees are

unable to receive any of the benefits and protections guaranteed by U.S. citizenship. Their unique situation, their dedication, and their invaluable contribution to the United States Government justify an exception to the statutory requirement. This section would also provide an incentive to qualified defectors and emigres to consider USARI as an employment alternative without forfeiting their right to apply for U.S. citizenship.

Section 509 amends paragraph 1590(e)(1) of Chapter 81 of title 10, United States Code, which was enacted as Section 504 of the Fiscal Year 1987 Intelligence Authorization Act, Public Law 99-569, 17 October 1986, by deleting the phrase ", during fiscal years 1988 and 1989,". The operative effect of the deletion is to grant the Secretary of Defense permanent special termination authority with regard to any civilian intelligence officer or employee of a military department under the circumstances detailed in paragraph 1590(e)(1). Deletion of the phrase ", during Fiscal Years 1988 and 1989," in paragraph 1590(e)(1) parallels Section 505 of this bill. Parity alone between the DIA and the Military Services in managing their civilian intelligence personnel population dictates adoption of this proposal. It is hoped that the Secretary of Defense will never have to make use of this special termination authority; such authority will be invoked only as a last resort. It is important that this authority not lapse since it will be too late to enact this provision again should an instance arise when it is necessary to invoke this authority.

Section 510 would grant the Secretary of Defense the authority to establish an independent civilian personnel management system for the Defense Language Institute (DLI) and to promulgate regulations that will allow for the career development and training of faculty to meet the language training mission similar to private academic institutions.

DLI is an academically and professionally accredited Institution of higher education operated for the Department of Defense by the Department of the Army through its Training and Doctrine Command. DLI is a unique institution comprised of foreign language teaching specialists with native-level proficiency. As a part of the Federal Government it is administered under normal military and civil service procedures. DLI is accredited by the Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges. Since DLI is not a degree-granting Institution, it is recognized under the jurisdiction of the Junior Commission as a specialized post-secondary institution.

DLI is responsible for all military foreign language training for the Department of Defense. DLI trains approximately 6,000 students per year from all four Services (Army, Navy, Air Force, and Marine Corps). For academic and administrative purposes, the Institute is organized into six

separate language schools with a total of 38 separate language departments. Each school is headed by a dean and each department by a chairperson. During the past decade, the DLI civilian faculty and staff has almost doubled to its current total of approximately 870 instructional and academic support personnel.

The language instruction that DLI provides becomes the foundation for future development in the students' designated career fields. Each career field requires specific language proficiency levels for its personnel. Currently, many of these levels are not being attained. While numerous factors contribute to this situation, a major problem is faculty personnel management as it is administered under the current civil service system. The growth in DLI student population (nearly an 85 percent increase in graduates from 1979 to 1986) has resulted in personnel management requirements which exceed existing limits. Specifically, the current classification system gives rank and pay to each position. It provides little or no flexibility for reward of individual qualifications and contributions. The necessity to double faculty size has resulted in the hiring of numerous native speakers who are not trained in language teaching. At present only extremely limited professional training can be provided to correct this serious deficiency.

The proposal contained in this section follows the spirit and intent of recent Office of Personnel Management (OPM) initiatives for a simplified management system approach to the existing Civil Service Personnel Management Program. DLI personnel are in full support of these initiatives and are striving to accomplish superior employee production. The OPM initiatives, however, fall short of allowing DLI to meet fully its organizational goals. There is no system allowing for progression in this environment by academic degree attainment or superior academic achievement. In addition, the Institute needs authority to classify its academic personnel and to support academic degree attainment.

The proposal contained in section 510 corrects these serious problems. It would grant the Secretary of Defense classification and compensation authority for DLI. This would allow DLI to structure its work force following accepted academic models. Specifically, academic staff and faculty personnel could be awarded academic ranks based upon individual qualifications. Personnel would be required to meet established academic standards and would be compensated according to their individual contributions to the organization. This would provide management the flexibility essential to the operation of a modern educational institution. It should be noted that comparable personnel management systems have already been authorized for other Federal institutions: the U.S. Naval Academy by Section 6952 of title 10, U.S.C.; the Naval War College by Section 7478 of

title 10, U.S.C.; the U.S. Naval Postgraduate School by Section 7044 of title 10, U.S.C.; the U.S. Coast Guard Academy by Section 186 of title 14, the Merchant Marine Academy by Section 1126(e) of title 14, U.S.C.; the Panama Canal College by title 20, U.S.C.; and the Air Force Institute of Technology by title 10, U.S.C.

The proposal would also allow DLI to provide financial assistance to the faculty in pursuit of degrees in fields related to foreign language teaching. Such authority would have an immediate, positive impact on faculty qualifications and be a major investment in improving the professional quality of the faculty.

The Department of Defense believes these proposed changes in the personnel management systems would lead to the professionalization of the faculty and resources. It would also lead to a significant improvement in student graduation rates. This improvement would contribute significantly to educating graduates who can perform at the required level in critical intelligence and foreign liaison functions throughout the Department of Defense and the national Intelligence Community.

Section 511 adds new language to Section 1342, Chapter 13 of title 31 to authorize the Secretary of the Army to employ personal services in order to hire instructors at a classified training facility. The Defense Intelligence Agency (DIA) is the executive agent within the Department of Defense (DoD) for all matters related to training DoD personnel at the facility. In response to an expansion of courses, DIA has tasked Army to fill six new instructor positions at the facility. In order to fill these positions, Army would be required to adopt one of three alternatives: pull officers from their duties in the field; attempt to hire the instructors as civil service annuitants; or hire the instructors by means of a Government contract. The first alternative is unacceptable operationally, as the personnel are far more urgently needed in the field. The second alternative is also unacceptable, as the likely pool of candidates is made up mainly of retired Government employees, civilian and military; and the salary that could be paid to them as annuitants is severely limited by status. The salary limitation would make the position extremely unattractive. The final alternative is considered acceptable, but only if the instructors can be hired with a contract for personal services. It is necessary for Army to retain a high degree of flexibility in the assignment of duties to the instructors and to maintain the type of supervisory control that exists in an employer/employee relationship, a control found only in a personal service contract. This amendment will permit the Army to contract for personal services for instructors at the classified facility.

Section 512 adds a new subsection (g) to Section 5532, Subchapter IV, Chapter 55 of title 5, United States Code to permit retired military personnel to receive their full retired or retainer pay when employed by the United States Government on intelligence-related duties. Under present law, a retired officer of a Regular Component holding a position with the U.S. Government forfeits a portion of his retired pay. The effect of this policy is to discourage such retired officers from seeking Government positions. There is, however, a particular need to attract to Government service retired military personnel with intelligence backgrounds; this section provides a means of doing so. By the time they retire, military intelligence officers are trained and qualified to high levels of unique professional expertise and are generally functioning at the height of their career productivity. If they could fill civilian positions, without financial loss, the United States Government would be able to obtain and benefit from their continued service.

Additionally, the civilian component of the Intelligence Community would be strengthened by the mixture of retired officer and civilian personnel lacking such prior military experience.

TITLE VI
ENHANCED FBI COUNTERINTELLIGENCE AUTHORITIES

Section 601 amends the Fair Credit Reporting Act to require consumer reporting agencies to provide information to the Federal Bureau of Investigation in certain foreign counterintelligence investigations. The Right to Financial Privacy Act (RFPA) was recently amended to provide the FBI mandatory access to financial records in certain foreign counterintelligence investigations. Because consumer agencies are not subject to the RFPA, however, this change is necessary to provide similar consumer credit information.

The change will provide a means by which the FBI can obtain consumer credit information, including current and former addresses and employers, when it is certified by the Director that the report relates to an agent of a foreign power, or is necessary in connection with an authorized foreign counterintelligence investigation. The provision additionally prohibits disclosure of the fact the request was made or information obtained.

Section 602 provides a means for the Federal Bureau of Investigation to obtain information relating to current and former residence and employment of individuals believed to be acting on behalf of a foreign power. The information obtained under this provision will permit the FBI to locate an agent of a foreign power, obtain historical data on actions by such an agent, and, in certain cases, assist in determining the veracity of such an agent. This information is not readily available to the FBI from any single source and is often impossible to obtain through investigation without compromising sources of information or the confidentiality of an investigation.

TITLE VII
GENERAL PROVISIONS

Section 701 authorizes the increase of appropriations authorized by the Act for salary, pay, retirement and other benefits for federal employees as necessary for increase in such benefits authorized by law.

INTELLIGENCE AUTHORIZATION ACT
FISCAL YEAR 1990

CHANGES IN EXISTING LAW

NOTE: Where applicable, changes in existing law are shown as follows: existing law in which no change is proposed is shown in roman; existing law proposed to be struck is enclosed in brackets; and new material is underscored.

TITLE I - INTELLIGENCE ACTIVITIES

Section 101: No substantive change.

Section 102: No substantive change.

Section 103: No substantive change from the Fiscal Year 1989 Intelligence Authorization Act.

TITLE II - INTELLIGENCE COMMUNITY STAFF

Section 201: No substantive change.

Section 202: No substantive change.

Section 203: No substantive change.

TITLE III -
CENTRAL INTELLIGENCE AGENCY
RETIREMENT AND DISABILITY SYSTEM

Section 301: No substantive change.

TITLE IV - CENTRAL INTELLIGENCE AGENCY
ADMINISTRATIVE PROVISIONS

Section 401: Amends Section 3 of the Central Intelligence Agency Act of 1949 (50 U.S.C. §403c) by adding the following new subsection:

(f) In the performance of its functions, the Agency may use its funds to procure commercial remote sensing data by whatever means the Agency deems to be appropriate notwithstanding any other provision of law.

Section 402 (a): Amends Section 236 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, as follows:

"SEC. [236] 237. The number of participants . . . "

(b) Amends the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, by adding the following section:

"Eligibility for Annuity

"SEC. 236. A participant must complete, within the last two years before any separation from service, except a separation because of death or disability, at least one year of creditable civilian service during which he or she is subject to this title before he or she or his or her survivors are eligible for an annuity under this title based on the separation. If a participant, except a participant separated from the service because of death or disability, fails to meet the service requirement of the preceding sentence, the amounts deducted from his or her pay during the period for which no eligibility is established based on the separation shall be returned to him or her on the separation. Failure to meet this service requirement does not deprive the individual or his or her survivors of annuity rights which attached on a previous separation."

Section 403: Amends Section 302(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees as follows:

"(b)(1) The provisions of sections 233 and 235 of this Act shall apply to officers and employees referred to in subsection (a), except that the retirement benefits shall be determined under the provisions of chapter 84 of title 5, United States Code.

"(2) Section 251(b) of this Act shall also apply to officers and employees referred to in subsection (a)."

Section 404(a). Amends section 232(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, by adding at the end of paragraph (1) thereof the following new sentence:

"Payment of death in service benefits for former spouses is also subject to paragraph (4) of this subsection."

(b) Amends section 232(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, by adding the following new paragraph at the end thereof:

"(4) If a former spouse eligible for death in service benefits under provisions of this section is or becomes eligible for survivor benefits under section 224, the benefits provided under this section will not be payable and will be superseded by the benefits provided in section 224."

TITLE V
NSA/DIA/ARMY
PERSONNEL AUTHORITIES IMPROVEMENTS

Section 501: Amends Section 912(1) of chapter 1 of title 26, United States Code, to read as follows:

The following items shall not be included in gross income, and shall be exempt from taxation under this subtitle:

(1) Foreign areas allowances: in the case of civilian officers and employees of the Government of the United States, amounts received as allowances, or otherwise (but not amounts received as post differentials) under--

(A) chapter 9 of title I of the Foreign Service Act of 1980,

(B) section 4 of the Central Intelligence Agency Act of 1949, as amended (50 U.S.C., 403e),

(C) title II of the Overseas Differentials and Allowances Act, [or]

(D) subsection (e) or (f) of the first section of the Administrative Expenses Act of 1946, as amended, or section 22 of such Act, [.]

"(E) subsection (b) of section 9 of the National Security Agency Act of 1959, as amended (50 U.S.C. §402 note), whenever the allowance would be excluded from gross income under paragraphs (1)(A) or (1)(B) of this section, or

"(F) subsection 1605(a) of title 10, United States Code, whenever the allowance would be excluded from gross income under paragraph 1(A) of this section."

Section 502: Amends Chapter 33 of title 10, United States Code, by adding at the end thereof the following new section:

"1608. Special Pay for Foreign Language Proficiency

"(a) In addition to any compensation authorized under

section 1604(b) of this title, the Secretary of Defense further may compensate civilian officers and employees of the Department of Defense; (1) who have been certified to be proficient in a foreign language identified by the Secretary of Defense as being a language where personnel proficiency is necessary for national defense considerations; and (2) who serve in positions where proficiency facilitates performance of officially assigned duties, or otherwise are proficient in a foreign language for which the Department has a critical need.

"(b) The annual rate for special pay under subsection (a) shall be determined by the Secretary of Defense but may not exceed \$3,600.00."

(b) Amends the table of contents of chapter 33 of title 10, United States Code, by adding at the end thereof the following.

"1608. Special Pay for Language Proficiency

Section 503: (a) Amends Chapter 155 of title 10, United States Code, by adding at the end thereof the following new section:

"2606. Gifts to support the Defense Intelligence School

(a) The Secretary of Defense is authorized to accept, hold, administer, and use gifts, to include bequests or devises, money, securities, or other property, both real and personal, for the purpose of aiding and facilitating the work of the Defense Intelligence College.

(b) Gifts of money and proceeds from sales of property received as gifts shall be deposited in the Treasury and shall be available for disbursement upon the order of the Secretary.

(c) For purposes of federal income, estate, and gift taxation, gifts accepted by the Secretary under this section shall be considered to be to or for the use of the United States."

(b) Amends the table of contents of chapter 155 of title 10, United States Code, by adding at the end thereof the following:

"2606. Gifts to support the Defense Intelligence School

Section 504: Amends Chapter 32 of title 10, United States Code, by adding at the end thereof the following new section:

"527. Exception to General and Flag Officer Grade Ceiling

"Commissioned officers serving as Director or Deputy Director of the Defense Intelligence Agency, or Director of the National Security Agency, during the period in that appointment, shall not be counted against the numbers and percentages of commissioned officers of the rank and grade of such officer authorized for the Armed Force of which he is a member."

(b) Amends the table of contents of chapter 32 of title 10, United States Code, by adding at the end thereof the following:

"527. Exception to General and Flag Officer Grade Ceiling."

Section 505: Amends section 1604(e)(1) of title 10, United States Code, as follows:

"Notwithstanding any other provision of law, the Secretary of Defense may [during fiscal years 1988 and 1989,] terminate the employment of any civilian officer or employee of the Defense Intelligence Agency whenever he considers that action to be in the interest of the United States and he determines tha the procedures prescribed in other provisions of law that authorize the termination of the employment of such officer or employee cannot be invoked in a manner consistent with the national security."

Section 506: Amends Section 606(4) of the National Security Act of 1947 to read as follows:

(4) The term "covert agent" means--

(A) An officer or employee of an intelligence agency or a member of the Armed Forces [assigned to duty with] acting as an agent of, or informant or source of operational assistance to an intelligence agency.

(B) A United States citizen whose relationship to the United States is classified information, and

(i) who [resides and] acts outside the United States as an agent of, or informant or source of operational assistance to, an intelligence agency, or

(ii) who is at the time of disclosure acting as an agent of, or informant or source of operational assistance to, the foreign counterintelligence or foreign counterterrorism components of [the Federal Bureau of Investigation] an intelligence agency.

Section 507: Amends Chapter 343 of title 10, United States Code, by adding at the end thereof the following new section:

"SEC. 3549. Military Intelligence: Secure Promotions of Officers Serving in the Great Skills Program or its Successors

"If the Secretary of the Army determines that compliance with the appointment procedures specified in section 624(c) of of this title may be harmful to the security or safety of officers performing classified intelligence or counterintelligence duties as members of the Great Skills Program or its successors or compromise the security of an intelligence or counterintelligence operation conducted by Great Skills personnel, the Secretary may submit to the President a classified list identifying those affected officers whom the Secretary recommends for promotion. The President, without seeking the advice and consent of the Senate, may appoint officers so identified in grades below that of brigadier general. The Secretary of the Army shall annually report to the Committee on Armed Services of the Senate and House of Representatives the number of officers promoted under this section and the grades to which such officers were promoted."

(b) Amends the table of contents of Chapter 343 of Title 10, United States Code, by adding at the end thereof the following:

3549. Military Intelligence: Secure Promotions of Officers Serving in the Great Skills Program or its Successors."

Section 508: (a) Amends section 1430 of title 8, United States Code, by adding at the end thereof the following new subsection:

"(e) Any person who (1) is employed by the U.S. Army Russian Institute, and (2) has been so employed continuously for a period of not less than five years after a lawful admission for permanent residence, and (3) who files his petition for naturalization while so employed or within six months following the termination thereof, and (4) who is in the United States at the time of naturalization, and (5) who declares before the naturalization court in good faith an intention to take up residence within the United States immediately upon termination of such employment, may be naturalized upon compliance with all the requirements of this subsection except that no prior residence or specified period of physical presence within the United States or any State or within the jurisdiction of the court, or proof thereof, shall be required."

(b) Amends the title of Section 1430 to read as follows:

"Section 1430. Married persons and employees of certain nonprofit organizations and the United States Army Russian Institute".

(c) Amends the table of contents for Chapter 12, Subchapter III, Part II, § 1430 to read as follows:

" 1430. Married persons and employees of certain nonprofit organizations and the United States Army Russian Institute."

Section 509: Amends Section 1590(e)(1) of title 10, United States Code, as follows:

"(e)(1) Notwithstanding any other provision of law the Secretary of Defense may [during fiscal years 1987 and 1988] terminate the employment of any civilian intelligence officer or employee of a military department whenever he considers that action to be in the interest of the United States and he determines that the procedures prescribed in other provisions of law that authorize the termination of the employment of such officer or employee cannot be invoked in a manner consistent with the national security."

8.

Section 510: (a) Amends Part III of title 10, United States Code, by adding at the end thereof the following new chapter:

CHAPTER 111--Defense Language Institute
Sec.

"2191. Function.

"2192. Civilian faculty.

"2193. Civilian personnel management.

"2194. Conferral of degrees upon graduates.

"SEC. 2191. Function

"There is an organization for the instruction of Department of Defense personnel and others, as approved by the Secretary of Defense, in foreign languages and for the encouragement of foreign language instruction throughout educational institutions in the United States.

"SEC. 2192. Civilian Faculty

"The Secretary of Defense may employ such civilians as he considers necessary to serve in this Institute as chancellor, senior professors, professors, associate professors, assistant professors, instructors, and supporting staff. The Secretary of Defense shall prescribe the qualifications, duties, tenure, and compensation of those persons.

"SEC. 2193. Civilian Personnel Management

"(a) The Secretary of Defense may establish a flexible personnel management system for the civilian faculty and analogous staff members of this Institute. Chapters 41, 43, 51, 53, 61, 75, and Subchapters I, II, and V of Chapter 55 of title 5 shall guide the Secretary in this establishment of such system but shall not be binding on the Secretary.

"(b) In no case may compensation be paid at a rate in excess of the rate of basic pay for Level V of the Executive Schedule as noted in Chapter 53 of title 5.

"SEC. 2193. Conferral of Degrees Upon Graduates

"(a) The Chancellor of the Institute, under direction of the Secretary of Defense, may confer on any qualified graduate an appropriate degree in a foreign language.

"(b) A degree may not be conferred under this section unless the curriculum leading to that degree is accredited by the appropriate professional authority."

(b) Amends the table of chapters at the beginning of subtitle A of such title, and the table of chapters at the beginning of Part III of such subtitle, by inserting after the item relating to Chapter 110 the following new item:

"111. Defense Language Institute.....2191."

Section 511: (a) Amends Section 1342, Chapter 13 of title 31, United States Code to read as follows:

"An officer or employee of the United States Government or of the District of Columbia government may not accept voluntary services for either government or employ personal services exceeding that authorized by law except for emergencies involving the safety of human life or the protection of property. Notwithstanding the foregoing limitation on the employment of personal services, the Secretary of the Army is authorized to employ personal services in order to provide instructors at a classified training facility. This section does not apply to a corporation getting amounts to make loans (except paid in capital amounts) without legal liability of the United States."

Section 512: Amends Section 5532, Subchapter IV, Chapter 55 of title 5, United States Code by adding at the end thereof the following new subsection:

"(g). Notwithstanding any other provision of law, the retired or retainer pay of a former member of a uniformed service shall not be reduced while such former member is employed by the United States Government to perform duties governed by Executive Order 12333 or successor orders, or to train others to perform such duties."

TITLE VI
ENHANCED FBI COUNTERINTELLIGENCE AUTHORITIES

Section 601 (a): Amends Section 1681f of title 15, United States Code, to read as follows:

(1) Notwithstanding the provisions of section 1681b of this title, a consumer reporting agency may furnish identifying information respecting any consumer, limited to his name, address, former address, places of employment, or former places of employment, to a governmental agency.

(2) Notwithstanding the provisions of Section 1681b. of this title, a consumer reporting agency shall furnish a consumer report to the Federal Bureau of Investigation when presented with a request for a consumer report made pursuant to this subsection by the Federal Bureau of Investigation providing that the Director of the Federal Bureau of Investigation, or his designee, certifies in writing to the consumer reporting agency that such records are sought for foreign counterintelligence purposes and that there are specific and articulable facts giving reason to believe the person to whom the requested consumer report relates is an agent of a foreign power as defined in Section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. §1801).

(3) Notwithstanding the provision of Section 1681b of this title, a consumer reporting agency shall furnish identifying information respecting any consumer, limited to name, address, former address, place of employment, or former place of employment, to a representative of the Federal Bureau of Investigation when presented with a written request signed by the Director of the Federal Bureau of Investigation, or the Director's designee, stating that the information is sought in connection with an authorized foreign counterintelligence investigation.

(4) No consumer reporting agency, or officer, employee, or agent of such institution, shall disclose to any person that the Federal Bureau of Investigation has sought or obtained a consumer report under this section."

Section 602: Amends Section 1306 of Title 42, United States Code, adding the following new paragraph at the end thereof:

"(f) FBI REQUESTS FOR FOREIGN COUNTERINTELLIGENCE PURPOSES

Notwithstanding Section 1306(a), the Secretary of Health and Human Services, or the Secretary of Labor, as the case may be, shall disclose information in the Secretary's possession relating to the address, former address, place of employment, and former place of employment of a named person, when presented with a certification signed by the Director of the Federal Bureau of Investigation, or the Director's designee, stating that:

(1) The information is sought in connection with an authorized foreign counterintelligence investigation; and,

(2) There are specific and articulable facts giving reason to believe the person is an agent of a foreign power as defined in Section 101 of the Foreign Intelligence Surveillance Act of 1978 ((50 U.S.C. §1801))."

TITLE VII
GENERAL PROVISIONS

Section 701: No substantive change.

INTELLIGENCE AUTHORIZATION ACT,
FISCAL YEAR 1989

COST ANALYSIS

TITLE I
INTELLIGENCE ACTIVITIES

SEC. 101. Fiscal Year 1990 authorizations are contained in the Classified Schedule of Authorizations.

SEC. 102. Cost analysis not applicable.

SEC. 103. Cost contingent upon exercise of permissive authority.

TITLE II
INTELLIGENCE COMMUNITY STAFF

SEC. 201. The Fiscal Year 1989 authorization is
\$ _____

SEC. 202. Cost analysis not applicable.

SEC. 203. Cost analysis not applicable.

TITLE III
CENTRAL INTELLIGENCE AGENCY
RETIREMENT AND DISABILITY SYSTEM

SEC. 301. The Fiscal Year 1990 authorization is
\$ _____

TITLE IV
CENTRAL INTELLIGENCE AGENCY
ADMINISTRATIVE PROVISIONS

SEC. 401. Enactment of this section will not result in additional cost to the Government.

SEC. 402. Based on the extremely limited number of people in this category, there is no anticipated cost to the Government.

SEC. 403. It is anticipated that during the first 18 years after enactment of this provision, the Government will save money as employees in FERS Special take extra retirement credits in lieu of an overseas differential.

SEC. 404. It is anticipated that enactment of this provision will save the Government money since it eliminates the possibility of a former spouse receiving a dual entitlement.

TITLE V
NSA/DIA/ARMY
PERSONNEL AUTHORITIES IMPROVEMENTS

SEC. 501. The enactment of this section would result in the loss to the government of income tax revenues otherwise collectible on the exempted sums.

SEC. 502. Enactment of this section would cost approximately \$75,000 per year.

SEC. 503. Enactment of this section should not result in any additional cost to the Department of Defense or the Federal Government.

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SEC. 510. The total additional cost of implementing section 510 during the next five years is estimated at \$1.3 million. However, by enhancing the quality of language instruction, the proposal is expected to improve the proficiency of students by approximately 25% without increasing course length. The cost of increasing the length of courses to achieve a 25% increase in proficiency under the existing instructional system would be approximately \$55 million over the next five years. Thus, the proposal is estimated to result in a net avoidance of costs of approximately \$53.7 million in the next five years.

SEC. 511. Enactment of this section will cause an estimated increase of \$150,000 per annum in the budgetary requirements of the Department of Defense. Actual costs will not be known until solicitation for the instructors are issued and contracts are negotiated.

SEC. 512. Enactment of this legislation will cost

(Data to be supplied by Department of the Army).

TITLE VII
ENHANCED FBI COUNTERINTELLIGENCE AUTHORITIES

Access to Consumer Reports

SEC. 701. This change will allow the FBI to obtain accurate reliable information, often unobtainable from any other source. There are no known costs associated with the change. In many cases the provision will save a significant expenditure of man hours necessary to develop similar information from other sources. In other cases, without this provision, investigations will be terminated because insufficient information is available to further identify the subject and/or continue the investigation.

SEC. 702. This change will allow the Federal Bureau of Investigation to obtain accurate reliable information, often unobtainable from any other source. There are no known costs associated with the change. In many cases the provision will save a significant expenditure of man hours necessary to develop similar information from other sources. In other cases, without this provision, investigations will be terminated because insufficient information is available to further identify the subject and/or continue the investigation.

TITLE VIII
GENERAL PROVISIONS

SEC. 801. Cost analysis not applicable.